

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF OWNERSHIP, WHICH MERGES:

"AMGEN BOULDER INC.", A DELAWARE CORPORATION,

WITH AND INTO "AMGEN INC." UNDER THE NAME OF "AMGEN INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE THIRTY-FIRST DAY OF DECEMBER, A.D. 1997, AT 10 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.




Edward J. Freel, Secretary of State

2106150 8100M

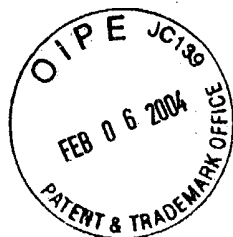
AUTHENTICATION:

8844498

DATE:

01-02-98

071454892



PATENT
Customer Number 22,852
Attorney Docket No. 4189.0083-06000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)

THOMPSON et al.)

Serial No.: 08/482,283)

Filed: June 7, 1995)

For: NUCLEIC ACIDS ENCODING
INTERLEUKIN-1 INHIBITORS
AND PROCESSES FOR
PREPARING INTERLEUKIN-1
INHIBITORS)

Group Art Unit: 1647)

Examiner: Spector, L.)

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

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APR 06 2004

TECH CENTER 1600/2900

RECEIVED

FEB 12 2004

TECH CENTER 1600/2900

CONSENT OF ASSIGNEE TO INVENTORSHIP CORRECTION

Amgen Inc. is a joint assignee with The Regents of the University of Colorado of the above-identified U.S. Application No. 08/482,283, filed June 7, 1995, for Nucleic Acids Encoding Interleukin-1 Inhibitors and Processes for Preparing Interleukin-1 Inhibitors, in the name of Thompson et al. as indicated by the attached copy of the Certificate of Ownership and Merger of Amgen Boulder Inc. With and Into Amgen Inc., which was submitted for recordation on February 4, 2004, the attached copy of the Certificate of Amendment to the Certificate of Incorporation of Synergen Inc., which was submitted for recordation on February 4, 2004, and the assignments duly recorded in U.S. Patent Application No. 07/850,675 at Reel 6121, Frame 0254; at Reel 6121, Frame 0257; at Reel 6121, Frame 0260; at Reel 6121, Frame 0263; and at Reel 6121, Frame 0266.

The undersigned is authorized to act on behalf of assignee Amgen Inc.

Amgen Inc., the only assignee of the originally named inventors, consents to the correction of inventorship of this application by adding Charles H. Hannum, Stephen P. Eisenberg, Robert C. Thompson, William P. Arend, Fenneke G. Joslin, and Andreas Sommer as inventors.

I hereby declare that all statements made of my own knowledge and belief are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

to

Stuart L. Watt

Date

2/5/04

Name: Stuart L. Watt

Title: Vice President, Law

State of Delaware
Office of the Secretary of State

PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF OWNERSHIP, WHICH MERGES:

"AMGEN BOULDER INC.", A DELAWARE CORPORATION,

WITH AND INTO "AMGEN INC." UNDER THE NAME OF "AMGEN INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE THIRTY-FIRST DAY OF DECEMBER, A.D. 1997, AT 10 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.




Edward J. Freel, Secretary of State

2106150 8100M

071454007

AUTHENTICATION:

8844498

DATE:

01-02-98

CERTIFICATE OF OWNERSHIP AND MERGER

of

AMGEN BOULDER INC.

(a Delaware corporation)

with and into

AMGEN INC.

(a Delaware corporation)

It is hereby certified that:

1. Amgen Inc. (the "Corporation") is a corporation of the State of Delaware.
2. Amgen Boulder Inc., a Delaware corporation ("Amgen Boulder"), is a wholly-owned subsidiary of the Corporation.
3. The Corporation, as the owner of at least 90% of the outstanding shares of stock of Amgen Boulder, does hereby merge Amgen Boulder with and into the Corporation.
4. This Certificate of Ownership and Merger constitutes a plan of complete liquidation of Amgen Boulder pursuant to Section 332 of the Internal Revenue Code of 1986, as amended ("Section 332").
5. The following is a copy of the resolutions adopted on December 31, 1997 by unanimous written consent of the Board of Directors of the Corporation with respect to the merger of Amgen Boulder with and into the Corporation (the "Merger"):

RESOLVED, that Amgen Boulder be merged with and into the Corporation pursuant to Section 253 of the Delaware General Corporation Law as hereinafter provided, so that the separate existence of Amgen Boulder shall cease as soon as the Merger shall become effective, and thereupon the Corporation and Amgen Boulder will become a single corporation with the Corporation as the surviving corporation, which shall continue to exist under, and be governed by, the laws of the State of Delaware;

RESOLVED FURTHER, the Merger shall be treated as a tax-free liquidation pursuant to Section 332;

RESOLVED FURTHER, the Certificate of Ownership and Merger setting forth a copy of these resolutions shall be effective upon the filing thereof with the Secretary of State of the State of Delaware; and

RESOLVED FURTHER, that the Chief Executive Officer, President, Chief Financial Officer and Senior Vice President, General Counsel of the Company, and the Secretary

or Assistant Secretary of the Company acting in conjunction with any such officers, be and they hereby are authorized and directed to make and execute a Certificate of Ownership and Merger ("~~Certificate of Ownership and Merger~~"), in the form set forth as Exhibit A hereto, setting forth a copy of these resolutions to merge Amgen Boulder into the Corporation, and to cause the same to be filed and recorded as provided by law, and to do all acts and things whatsoever, within the State of Delaware and in any other appropriate jurisdiction, necessary or proper to effect the Merger.

6. The Certificate of Ownership and Merger and the Merger shall become effective upon the filing of such Certificate of Ownership and Merger with the Secretary of State of the State of Delaware.

[Signature Page to Follow]

Signed on December 31, 1997

AMGEN INC.

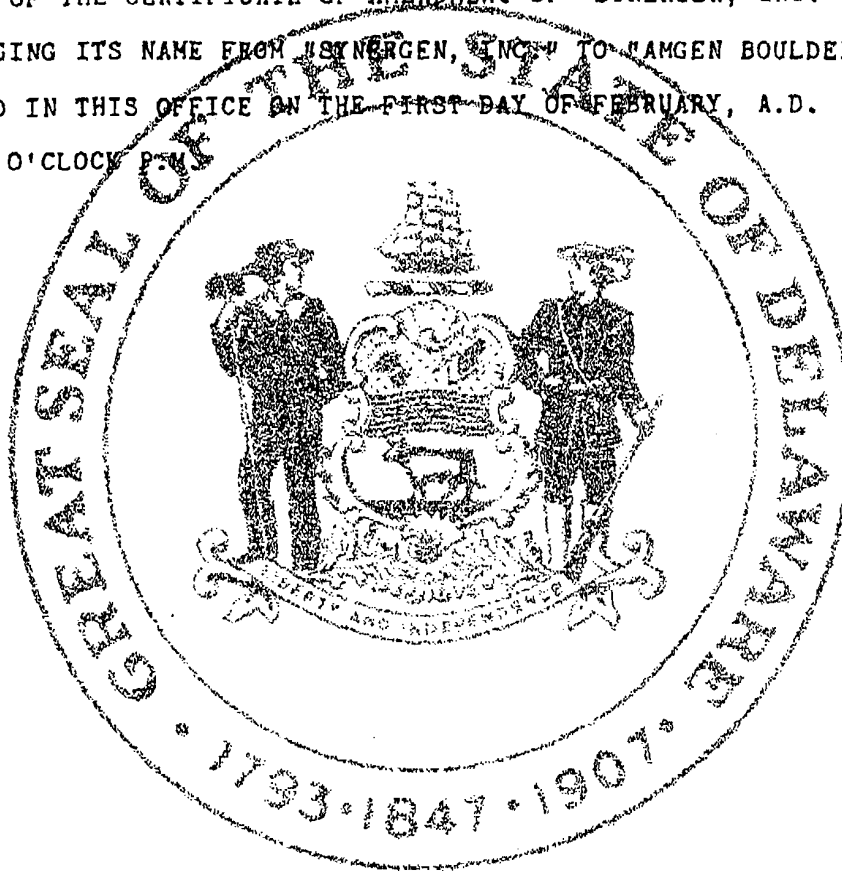
A handwritten signature in black ink, appearing to read "G. Vandeman", is written over a horizontal line.

Name: George A. Vandeman
Title: Senior Vice President, General
Counsel and Secretary

State of Delaware
Office of the Secretary of State

PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "SYNERGEN, INC.", CHANGING ITS NAME FROM "SYNERGEN, INC." TO "AMGEN BOULDER INC.", FILED IN THIS OFFICE ON THE FIRST DAY OF FEBRUARY, A.D. 1995, AT 2:30 O'CLOCK P.M.



Edward J. Freel

Edward J. Freel, Secretary of State

0932371 8100

960054038

AUTHENTICATION:

7840923

DATE:

02-26-96

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

IN WITNESS WHEREOF, SYNERGEN, INC. has caused its corporate seal to be hereunto affixed and this Certificate of Amendment to the Certificate of Incorporation to be signed by Thomas E. Workman, Jr., its Vice President, Secretary and General Counsel, this 31 day of January, 1995.

SYNERGEN, INC.

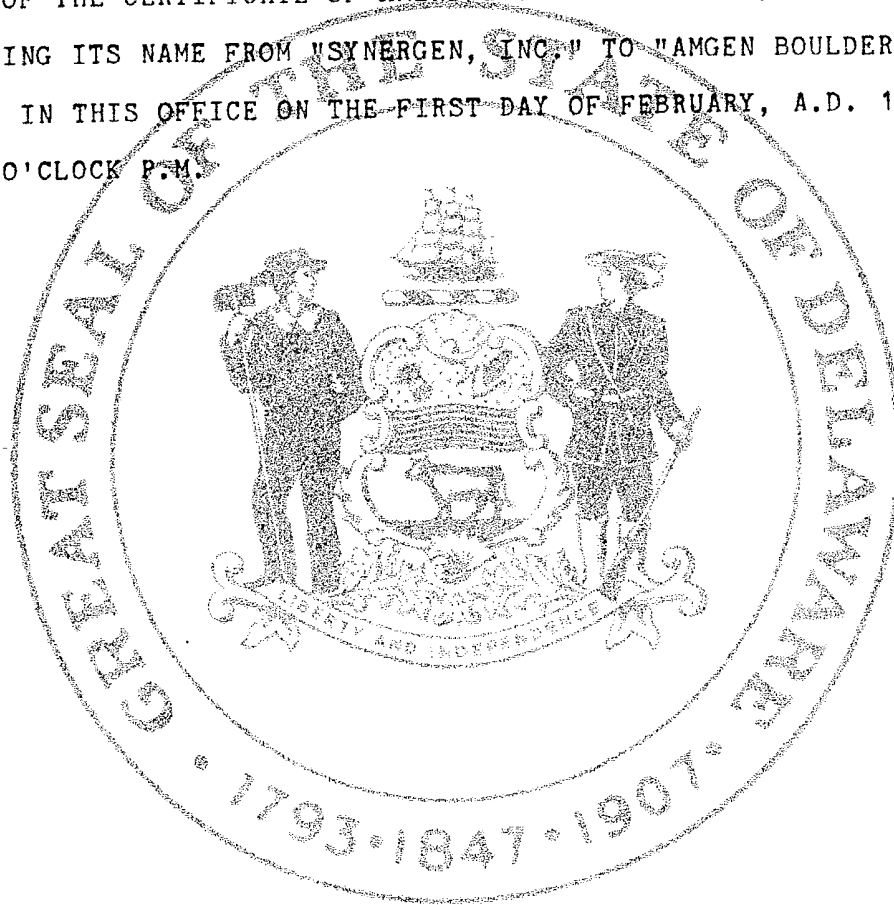
By:

Thomas E. Workman Jr

Vice President, Secretary and
General Counsel

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "SYNERGEN, INC.", CHANGING ITS NAME FROM "SYNERGEN, INC." TO "AMGEN BOULDER INC.", FILED IN THIS OFFICE ON THE FIRST DAY OF FEBRUARY, A.D. 1995, AT 2:30 O'CLOCK P.M.



Edward J. Freel

Edward J. Freel, Secretary of State

0932371 8100
960054038

AUTHENTICATION: 7840923
DATE: 02-26-96

Docket No.: 4189.0083-06

ASSIGNMENT

Whereas, Amgen Inc., duly organized under the laws of the State of Delaware and having its principal place of business at One Amgen Center, Thousand Oaks, CA 91320-1789, is the owner of U.S. Patent Application No. 07/850,675, filed March 13, 1992; U.S. Patent Application No. 08/319,506, filed October 6, 1994; and U.S. Patent Application No. 08/482,283, filed June 7, 1995 (collectively, "the Applications").

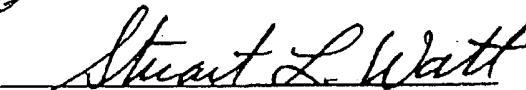
Whereas The Regents of the University of Colorado, a body corporate, a not-for-profit Colorado corporation, having a place of business at 201 Regent Administrative Center, Boulder, CO 80309, wishes to acquire a joint interest in the Applications:

Now, therefore, for good and valuable consideration, the receipt of which is hereby acknowledged, Amgen Inc. hereby sells, assigns, transfers and sets over unto The Regents of the University of Colorado, its successors and assigns joint right, title and interest in, to and under the Applications and all Letters Patent of the United States which may be granted from the Applications and reissues thereof.

I authorize and request the Commissioner of Patents and Trademarks of the United States to issue any such Letters Patent which may be granted on the Applications to Amgen Inc and The Regents of the University of Colorado as joint assignees of the entire right, title and interest therein and thereto.

In Witness Whereof I have executed this assignment on the 4th day of February 2004

Amgen Inc.



Name: Stuart L. Watt

Title: Vice President, Law

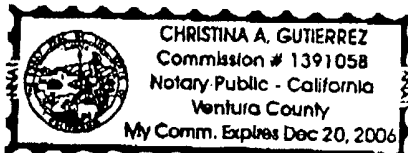
UNITED STATES OF AMERICA

State of California } ss:
County of Ventura }

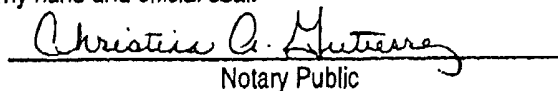
February 4 2004

Before me, a Notary Public for Ventura County, State of California, personally appeared Stuart L. Watt

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



WITNESS my hand and official seal.


Notary Public

My commission expires

December 20 2006

CERTIFICATE OF OWNERSHIP AND MERGER

of

AMGEN BOULDER INC.

(a Delaware corporation)

with and into

AMGEN INC.

(a Delaware corporation)

It is hereby certified that:

1. Amgen Inc. (the "Corporation") is a corporation of the State of Delaware.
2. Amgen Boulder Inc., a Delaware corporation ("Amgen Boulder"), is a wholly-owned subsidiary of the Corporation.
3. The Corporation, as the owner of at least 90% of the outstanding shares of stock of Amgen Boulder, does hereby merge Amgen Boulder with and into the Corporation.
4. This Certificate of Ownership and Merger constitutes a plan of complete liquidation of Amgen Boulder pursuant to Section 332 of the Internal Revenue Code of 1986, as amended ("Section 332").
5. The following is a copy of the resolutions adopted on December 31, 1997 by unanimous written consent of the Board of Directors of the Corporation with respect to the merger of Amgen Boulder with and into the Corporation (the "Merger"):

RESOLVED, that Amgen Boulder be merged with and into the Corporation pursuant to Section 253 of the Delaware General Corporation Law as hereinafter provided, so that the separate existence of Amgen Boulder shall cease as soon as the Merger shall become effective, and thereupon the Corporation and Amgen Boulder will become a single corporation with the Corporation as the surviving corporation, which shall continue to exist under, and be governed by, the laws of the State of Delaware;

RESOLVED FURTHER, the Merger shall be treated as a tax-free liquidation pursuant to Section 332;

RESOLVED FURTHER, the Certificate of Ownership and Merger setting forth a copy of these resolutions shall be effective upon the filing thereof with the Secretary of State of the State of Delaware; and

RESOLVED FURTHER, that the Chief Executive Officer, President, Chief Financial Officer and Senior Vice President, General Counsel of the Company, and the Secretary

or Assistant Secretary of the Company acting in conjunction with any such officers, be and they hereby are authorized and directed to make and execute a Certificate of Ownership and Merger ("Certificate of Ownership and Merger"), in the form set forth as Exhibit A hereto, setting forth a copy of these resolutions to merge Amgen Boulder into the Corporation, and to cause the same to be filed and recorded as provided by law, and to do all acts and things whatsoever, within the State of Delaware and in any other appropriate jurisdiction, necessary or proper to effect the Merger.

6. The Certificate of Ownership and Merger and the Merger shall become effective upon the filing of such Certificate of Ownership and Merger with the Secretary of State of the State of Delaware.

[Signature Page to Follow]

Signed on December 31, 1997

AMGEN INC.

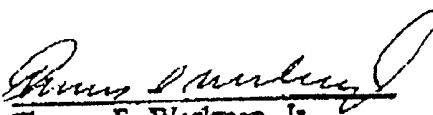
A handwritten signature in dark ink, appearing to read 'G. Vandeman', is written over a horizontal line.

Name: George A. Vandeman
Title: Senior Vice President, General
Counsel and Secretary

IN WITNESS WHEREOF, SYNERGEN, INC. has caused its corporate seal
to be hereunto affixed and this Certificate of Amendment to the Certificate of Incorporation
to be signed by Thomas E. Workman, Jr., its Vice President, Secretary and General
Counsel, this 31 day of January, 1995.

SYNERGEN, INC.

By:



Thomas E. Workman, Jr.
Vice President, Secretary and
General Counsel

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF OWNERSHIP, WHICH MERGES:

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WITH AND INTO "AMGEN INC." UNDER THE NAME OF "AMGEN INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE THIRTY-FIRST DAY OF DECEMBER, A.D. 1997, AT 10 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



A handwritten signature in cursive script, reading "Edward J. Freel".

Edward J. Freel, Secretary of State

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AUTHENTICATION:

8844498

DATE:

01-02-98

CERTIFICATE OF OWNERSHIP AND MERGER

of

AMGEN BOULDER INC.

(a Delaware corporation)

with and into

AMGEN INC.

(a Delaware corporation)

It is hereby certified that:

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RESOLVED, that Amgen Boulder be merged with and into the Corporation pursuant to Section 253 of the Delaware General Corporation Law as hereinafter provided, so that the separate existence of Amgen Boulder shall cease as soon as the Merger shall become effective, and thereupon the Corporation and Amgen Boulder will become a single corporation with the Corporation as the surviving corporation, which shall continue to exist under, and be governed by, the laws of the State of Delaware;

RESOLVED FURTHER, the Merger shall be treated as a tax-free liquidation pursuant to Section 332;

RESOLVED FURTHER, the Certificate of Ownership and Merger setting forth a copy of these resolutions shall be effective upon the filing thereof with the Secretary of State of the State of Delaware; and

RESOLVED FURTHER, that the Chief Executive Officer, President, Chief Financial Officer and Senior Vice President, General Counsel of the Company, and the Secretary

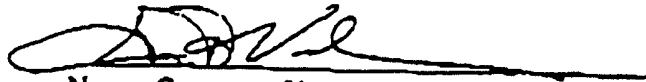
or Assistant Secretary of the Company acting in conjunction with any such officers, be and they hereby are authorized and directed to make and execute a Certificate of Ownership and Merger ("Certificate of Ownership and Merger"), in the form set forth as Exhibit A hereto, setting forth a copy of these resolutions to merge Amgen Boulder into the Corporation, and to cause the same to be filed and recorded as provided by law, and to do all acts and things whatsoever, within the State of Delaware and in any other appropriate jurisdiction, necessary or proper to effect the Merger.

6. The Certificate of Ownership and Merger and the Merger shall become effective upon the filing of such Certificate of Ownership and Merger with the Secretary of State of the State of Delaware.

[Signature Page to Follow]

Signed on December 31, 1997

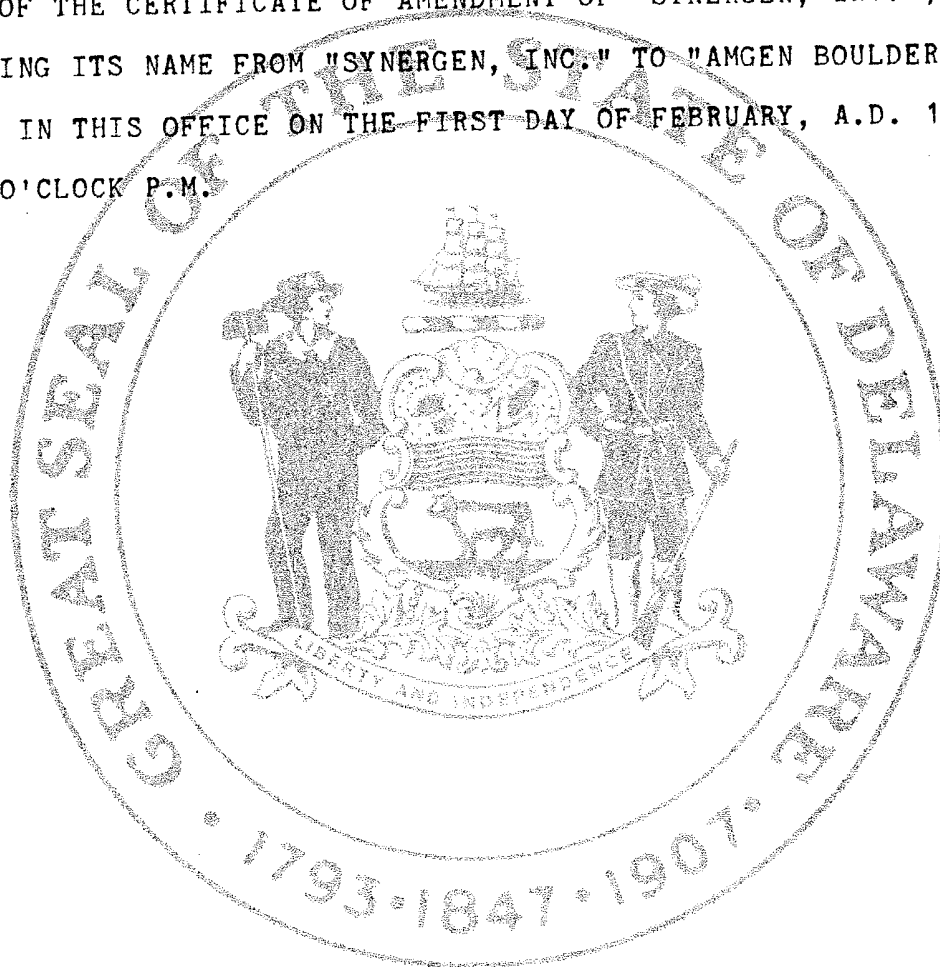
AMGEN INC.

A handwritten signature in dark ink, appearing to read 'G. Vandeman', written over a horizontal line.

Name: George A. Vandeman
Title: Senior Vice President, General
Counsel and Secretary

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "SYNERGEN, INC.", CHANGING ITS NAME FROM "SYNERGEN, INC." TO "AMGEN BOULDER INC.", FILED IN THIS OFFICE ON THE FIRST DAY OF FEBRUARY, A.D. 1995, AT 2:30 O'CLOCK P.M.



A handwritten signature in cursive script, reading "Edward J. Freel".

Edward J. Freel, Secretary of State

0932371 8100

960054038

AUTHENTICATION:

7840923

DATE:

02-26-96

CERTIFICATE OF AMENDMENT
TO THE
CERTIFICATE OF INCORPORATION
OF
SYNERGEN, INC.

Synergen, Inc., a corporation existing under the laws of the State of Delaware, which was originally incorporated under the name Synergen Associates, Inc. on February 22, 1982 (the "Corporation"), does hereby certify:

I. That Section 1 of the Certificate of Incorporation of the Corporation is hereby amended to read as follows:

1. The name of the corporation is:

Amgen Boulder Inc.

II. That written consent has been given in accordance with Section 228 of the General Corporation Law of the State of Delaware to amend Section 1 of the Certificate of Incorporation of the Corporation and that this Certificate of Amendment to the Certificate of Incorporation was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

SYNERGEN, INC.

By:

Thomas E. Workman, Jr.
Vice President, Secretary and
General Counsel

(Worldwide Rights)

ASSIGNMENT

WHEREAS, The University of Colorado Foundation, Inc., a Colorado non-profit corporation having a place of business at 4740 Walnut Street, Boulder, CO 80306-1140, is the joint owner of record of a certain invention entitled "INTERLEUKIN-1 INHIBITORS," for which an application for Letters Patent was filed on April 6, 1990, receiving Serial Number 506,522, now United States Patent Number 5,075,222, issued on December 24, 1991, for which another application for Letters Patent was filed on September 12, 1994, receiving Serial Number 08/304,437, and for which another application for Letters Patent was filed on June 6, 1995, receiving Serial Number 08/468,425; and

WHEREAS, the undersigned has been informed that The University of Colorado Foundation, Inc., apparently previously assigned its entire joint right, title, and interest to this invention to The Regents of the University of Colorado, a body corporate, a not-for-profit Colorado corporation, having a place of business at 201 Regent Administrative Center, Boulder, CO 80309. The undersigned has also been informed that a written document evidencing that assignment has not been found, nor is it known whether such a document ever existed. The undersigned has also been informed that The Regents of the University of Colorado has assigned its entire joint right, title, and interest to this invention to University Technology Corporation, a Colorado not-for-profit corporation, having a place of business at 4001 Discovery Drive, Suite 390, Campus Box 591, Boulder, CO 80309. Copies of the following are enclosed: (1) Intellectual Property Assignment and Servicing Agreement; (2) CU-UTC Intellectual Property Operating Agreement; (3) Addendum effective July 1, 2000; and (4) Addendum (April 18, 2001). The undersigned has also been informed that University Technology Corporation has assigned its entire joint right, title, and interest to this invention to The Regents of the University of Colorado. A copy of the Assignment indicating that transfer is enclosed. The present Assignment document is a confirmation of the prior assignments discussed above, and serves as the assignment of the entire joint right, title, and interest of this invention to The Regents of the University of Colorado if for any reason such prior assignments are not already effective.

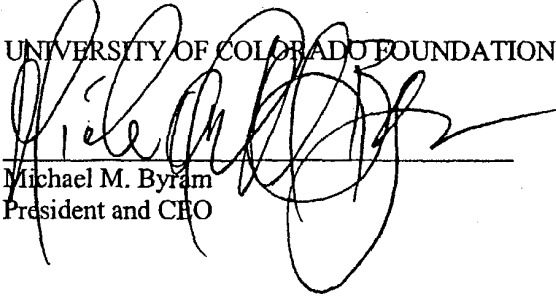
WHEREAS, The Regents of the University of Colorado is desirous of securing the entire joint right, title and interest in and to this invention in all countries throughout the world, and in and to the above-identified U.S. Patent and U.S. Patent Applications for U.S. Letters Patent on this invention and the Letters Patent to be issued upon those applications.

NOW THEREFORE, be it known that for and in consideration of certain good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the University of Colorado Foundation, Inc., at the request of the assignee does sell, assign and transfer unto The Regents of the University of Colorado, a body corporate, its successors, legal representatives and assigns, its entire joint right, title, and interest in and to this invention, U.S. Patent Number 5,075,222, U.S. Patent Application Serial Number 08/304,437, and U.S. Patent Application Serial Number 08/468,425, and all divisions and continuations thereof, and all Letters Patent of the United States that may be granted thereon, and all reissues thereof, and all rights to claim priority on the basis thereof, and all Letters Patents and applications for Letters Patent which may be filed for this invention in any foreign country and all Letters Patents which may be granted on this invention in any foreign country, and all extensions, renewals, and reissues thereof, and I hereby authorize and request the Commissioner of Patents and Trademarks of the United States and any official of any foreign country whose duty it is to issue patents on applications as described above, to issue all Letters Patents for this invention indicating joint ownership thereof by Amgen Inc. and The Regents of the University of Colorado.

This Assignment is executed by an officer of the University of Colorado Foundation, Inc. as of the date set forth below to be effective as of that date.

Date: 26 February 2003

UNIVERSITY OF COLORADO FOUNDATION, INC.


Michael M. Byram
President and CEO

STATE OF COLORADO)

) ss.

COUNTY OF BOULDER)

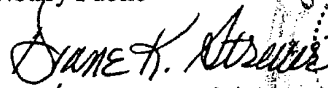
Before me, a Notary Public in and for said County and State, personally appeared MICHAEL M. BYRAM, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

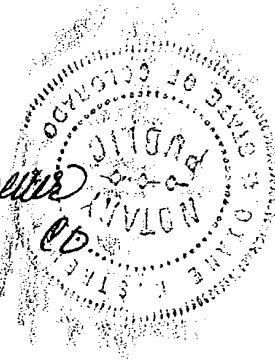
Given under my hand and seal of office this 26 day of FEB., 2003

My Commission Expires:

12-9-2004

Notary Public


Jane K. Strasser
Laurens Cty, CO



INTELLECTUAL PROPERTY ASSIGNMENT AND SERVICING AGREEMENT

This Agreement made this 3rd day of June, 1996, between The Regents of the University of Colorado, a body corporate (hereinafter "University"), and University Technology Corporation, a Colorado nonprofit corporation (hereinafter "UTC").

WITNESSETH

WHEREAS, it is understood by the parties hereto that the University now owns and will subsequently continue to own title to or rights in inventions, discoveries and other intellectual property created by its faculty, staff and students by virtue of their relationship with the University as more particularly specified in the University Patent Policy adopted by the Regents of the University; and

WHEREAS, the University has and will continue to have by virtue of public laws and private contracts the right to license or otherwise enter into agreements for the commercial development of such inventions, discoveries and other intellectual property; and

WHEREAS, the University desires that certain of its inventions, discoveries and other intellectual property in which the University has an ownership interest should be made available for public use and benefit as efficiently and quickly as possible; and

WHEREAS, UTC has been organized as a nonprofit corporation pursuant to C.R.S. § 23-5-121 to receive, hold, invest in, administer and manage intellectual property for the benefit of the University and UTC is willing to administer and manage the University's intellectual properties as provided herein.

NOW THEREFORE, for good and valuable consideration and the mutual performance of the undertakings herein, it is agreed by the parties hereto as follows:

Section 1. Rights and Property Assigned.

A. RIGHTS. The University, to the extent it has the right to do so and for the purposes of this Agreement, hereby assigns to UTC its entire right, title and interest in inventions, discoveries and other intellectual property in which the University has an interest. Such assignment shall be subject to any pre-existing agreements with other entities with which the University has contracted to transfer technology and to the rights, if any, of all

agencies and entities, private and public, sponsoring or otherwise, funding research at the University.

B. INCOME. To the extent the University is entitled to income or property rights from intellectual property by virtue of pre-existing agreements with other entities with which the University has contracted to transfer technology, the University hereby assigns the right to receive that income, on behalf of the University to UTC. By way of example, and not limitation, this paragraph includes royalty income, licensing fees, equity interest and income resulting from settlement or judgment of claims enforcing the intellectual property rights of the University or UTC.

C. EXISTING ACCOUNTS. On the date of execution of this Agreement, the University shall transfer and UTC shall accept the balance of the University's intellectual property and technology transfer accounts along with the receivables and liabilities associated with those accounts. These accounts shall be further described including fund balance, and outstanding receivables and liabilities in Exhibit A, which is attached and hereby incorporated by reference.

D. PERSONAL PROPERTY. The University hereby transfers to UTC that personal property which is currently utilized by the University for the purposes of technology transfer. By way of example and not limitation, this personal property includes business files, reference materials and office equipment. The personal property to be transferred shall be further described in the Personal Property Inventory attached as Exhibit B and hereby incorporated by reference.

E. USE OF THE UNIVERSITY NAME AND LOGOS. The University hereby grants to UTC authority to use the name of the University and its identifying marks and logos for the express purpose of furthering transfer of technology as otherwise described in this Agreement. UTC expressly understands and agrees that any such use shall be consistent with the University's graphic standards.

F. ACCESS TO UNIVERSITY RESOURCES. In order to meet its obligations under this agreement, UTC shall have access to University resources including but not limited to, campus mail privileges (including electronic mail), library privileges, parking permits at campus rates, use of conference rooms for the conduct of University-related business and other similar resources.

Section 2. Administrative Criteria.

UTC agrees to administer the University Patent Policy ("UPP") as it now exists or as it may be amended in the future by the

University, in accordance with the UPP's stated objectives, definitions and scope.

Section 3. University Committee on Intellectual Property.

There is a University Committee on Intellectual Property (hereinafter "UCIP"), appointed by the President of the University from the faculty and staff of the University. The UCIP shall advise the University and UTC on all invention disclosures under consideration for possible commercial exploitation by the formation of new companies or ventures. The UCIP shall also provide such other technical advice and expertise as UTC, its designee, or the University may request. The membership of that committee will include the UTC Board of Directors, the four campus technology transfer officers, a member of the University of Colorado Office of University Counsel and the President of UTC (Chairman).

Section 4. Procedures and Reports.

UTC shall establish such procedures as it deems necessary to carry out the obligations and requirements of this Agreement to develop and commercially exploit such inventions, discoveries and other intellectual property in which the University may have an interest. UTC shall provide the University with copies of such procedures as they are developed, together with quarterly reports of its activities with respect to the operation of this Agreement. UTC will provide to the University, as requested, a copy of any and all contractual agreements entered into by UTC to implement and/or carry out the terms of this Agreement.

Section 5. Division of Income.

A. UTC agrees to distribute net income received from the commercialization of any discovery developed under the terms of this Agreement consistent with allocations determined by the Board of Regents which is currently:

25% retained by UTC for its operating expenses and ultimately for the benefit of the University;

25% to the discoverer's(s') University department or primary administrative unit;

25% to a campus account to support the discoverer's(s') research; and

25% incentive to the discoverer(s).

B. Net income for each discovery shall be defined as all sums received by UTC from the development and commercial

exploitation of the discovery after first deducting all reasonable costs incurred by UTC in securing the commercial development of that particular discovery; provided however, that anything in this Section 5 to the contrary notwithstanding, UTC shall be entitled to retain dividends and equity conversions, if any, paid to UTC as a result of investment in companies which have equity participation in "new ventures" or similar dividend income from other entities with whom UTC may contract.

C. If UTC's policies are in conflict with the terms and conditions of an approved third-party grant or contract with the University, the terms of the approved third-party grant or contract will control.

D. In the event the distribution allocations are amended by the Board of Regents, UTC will distribute net income in accordance with the amended distribution policy.

Section 6. Annual Servicing Fee.

In consideration for UTC's agreement to manage the University's intellectual property under the terms of this Agreement, the University shall pay to UTC an annual servicing fee. For the initial term of this Agreement, the annual servicing fee shall be \$250,000 paid at the beginning of each fiscal year. The parties agree that the annual servicing fee shall be used, in conjunction with the revenue retained by UTC described in section 5(A) above for the administrative and operating expenses of UTC.

Section 7. Authority to Sign Documents and Enter Into Agreements

The University acknowledges that in administering and managing the rights assigned to UTC in Section 1 of this Agreement, UTC may enter into agreements with other persons and/or entities and sign documents as are necessary to carry out the purposes of this Agreement. By way of example, and not by limitation, the agreements and documents envisioned by this paragraph include confidentiality agreements, cooperative research and development agreements, licensing agreements, materials transfer agreements, patent applications and stock transfer agreements. Notwithstanding the foregoing, the parties agree that no invention disclosures will be commercially exploited through the formation of new companies or ventures without the express prior concurrence of the University's Vice President of Academic Affairs and Research, said concurrence not to be unreasonably withheld. Said agreements may result in the conveyance, transfer, assignment and/or licensing of all the right, title and interest of UTC in such inventions and discoveries.

Section 8. Term.

The initial term of this Agreement shall be from the date of its execution until June 30, 1998. The parties anticipate renewing the Agreement at the end of the initial term and agree to begin negotiating the terms of renewal on or about January 1, 1998.

Section 9. Financial Commitments.

It is the intent of the University to fulfill its obligations under this Agreement. However, contractual commitments cannot be made by the University beyond the period for which funds have been appropriated by the Legislature. In the event sufficient funds from which the University may fulfill its obligations under this Agreement are not appropriated, said Agreement will automatically terminate. Reimbursement will then be made, as soon as reasonably possible, for work completed by UTC prior to the effective date of termination and which would otherwise be eligible for reimbursement.

Section 10. Dispute Resolution.

The coordination of the day-to-day operations between the University and UTC shall be conducted by the Vice President for Academic Affairs and Research and the President of UTC. However, in the event that a dispute develops between those parties, then the matter shall be referred to a committee of five individuals, two of whom shall be selected by the President of the University and two of whom shall be members of UTC's Board of Directors. These four committee members shall select the fifth committee member. If the committee of four is unable to select the fifth committee member or if the committee of five is unable to resolve the dispute, upon the mutual agreement of the parties, it shall be resolved by binding, non-appealable arbitration in Denver, Colorado. In the event that the parties agree to arbitrate, each party shall select one neutral arbitrator and those two shall select a third neutral arbitrator and chair the three person arbitration panel. The arbitration shall be conducted in accordance with the Colorado Arbitration Act, the Colorado Rules of Evidence, and the limited discovery rules set forth in C.R.C.P. Rule 26.1.

Section 11. Default.

In the event either party breaches any term of this Agreement and such breach is not cured within thirty (30) days after written notice of such breach, the non-breaching party must initiate the dispute resolution process described in Section 10 of this Agreement. At the conclusion of the dispute resolution process, including arbitration if agreed upon, if the dispute is not

resolved, the non-breaching party shall have the right to give written notice of termination of the Agreement and pursue legal and equitable remedies. Once notice of termination has been provided, the Agreement shall automatically terminate at the end of ninety (90) days.

Section 12. Conflict.

If any provision of this Agreement shall be in conflict with any provision of the UPP referred to herein, the provisions of this Agreement shall be deemed to control.

Section 13. Special Provisions.

Attached to this Agreement are Special Provisions which are hereby incorporated by reference and expressly made a part of this Agreement.

In witness whereof, the parties have caused this Agreement to be signed herein below.

THE REGENTS OF THE UNIVERSITY
OF COLORADO, a body corporate,

By: John C. Buechner

John C. Buechner
President

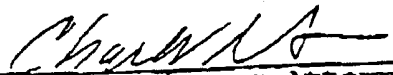
ATTEST:

Milagros Caraballo
Milagros Caraballo
Secretary of the University of
Colorado and of the Board of
Regents
APPROVED:


STATE CONTROLLER
CLIFFORD W. HALL

By: Clifford W. Hall


APPROVED AS TO FORM:


Special Assistant Attorney General

UNIVERSITY TECHNOLOGY
CORPORATION, a Colorado
nonprofit corporation,

By: 
Michael G. Gabridge
President

ATTEST:


Daniel J. Wilkerson
Corporate Secretary

A:\MEPVAG.UTC

SPECIAL PROVISIONS

CONTROLLER'S APPROVAL

1. This contract shall not be deemed valid until it shall have been approved by the Controller of the State of Colorado or such assistant as he may designate. This provision is applicable to any contract involving the payment of money by the State.

FUND AVAILABILITY

2. Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for the purpose being appropriated, budgeted and otherwise made available.

BOND REQUIREMENT

3. If this contract involves the payment of more than fifty thousand dollars for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct tunnel, excavation or other public work for this State, the contractor shall, before entering upon the performance of any such work included in this contract, duly execute and deliver to the State official who will sign the contract, a good and sufficient bond or other acceptable surety to be approved by said official in a penal sum not less than one-half of the total amount payable by the terms of this contract. Such bond shall be duly executed by a qualified corporate surety conditioned upon the faithful performance of the contract and in addition, shall provide that if the contractor or his subcontractors fail to duly pay for any labor, materials, team hire, sustenance, provisions, provender or other supplies used or consumed by such contractor or his subcontractor in performance of the work contracted to be done or fails to pay any person who supplies rental machinery, tools, or equipment in the prosecution of the work the surety will pay the same in an amount not exceeding the sum specified in the bond, together with interest at the rate of eight per cent per annum. Unless such bond is executed, delivered and filed, no claim in favor of the contractor arising under such contract shall be audited, allowed or paid. A certified or cashier's check or a bank money order payable to the Treasurer of the State of Colorado may be accepted in lieu of a bond. This provision is in compliance with CRS 38-26-106.

INDEMNIFICATION

4. To the extent authorized by law, the contractor shall indemnify, save, and hold harmless the State its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses and attorney fees incurred as a result of any act or omission by the contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

DISCRIMINATION AND AFFIRMATIVE ACTION

5. The contractor agrees to comply with the letter and spirit of the Colorado Antidiscrimination Act of 1957, as amended, and other applicable law respecting discrimination and unfair employment practices (CRS 24-34-402), and as required by Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975. Pursuant thereto, the following provisions shall be contained in all State contracts or sub-contracts.

During the performance of this contract, the contractor agrees as follows:

(a) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age. The contractor will take affirmative action to insure that applicants are employed and that employees are treated during employment, without regard to the above mentioned characteristics. Such action shall include, but not be limited to the following: employment upgrading, demotion, or transfer, recruitment or recruitment advertisements; lay-offs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth provisions of this non-discrimination clause.

(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age.

(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, notice to be provided by the contracting officer, advising the labor union or workers' representative of the contractor's commitment under the Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975, and of the rules, regulations and relevant Orders of the Governor.

(d) The contractor and labor unions will furnish all information and reports required by Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, and by the rules, regulations and Orders of the Governor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the office of the Governor or his designee for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(e) A labor organization will not exclude any individual otherwise qualified from full membership rights in such labor organization or expel any such individual from membership in such labor organization or discriminate against any of its members in the full enjoyment of work opportunity because of race, creed, color, sex, national origin, or ancestry.

(f) A labor organization, or the employees or members thereof will not aid, abet, incite, compel or coerce the doing of any act defined in this contract to be discriminatory or obstruct or prevent any person from complying with the provisions of this contract or any order issued thereunder: or attempt, either directly or indirectly, to commit any act defined in this contract to be discriminatory.

(g) In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further State contracts in accordance with procedures, authorized in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975 and the rules, regulation, or orders promulgated in accordance therewith, and such other sanctions as may be imposed and remedies as may be invoked as provided in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975 and the rules, regulation, or orders promulgated in accordance therewith, or as otherwise provided by law.

(h) The contractor will include the provisions of paragraphs (a) through (h) in every sub-contract and subcontractor purchase order unless exempted by rules, regulation, or orders issued pursuant to Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any sub-contracting or purchase order as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation, with the subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the State of Colorado to enter into such litigation to protect the interest of the State of Colorado.

COLORADO LABOR PREFERENCE

6a. Provisions of CRS 8-17-101 & 102 for preference of Colorado labor are applicable to this contract if public works within the State are undertaken hereunder and are financed in whole or in part by State funds.

6b. When a construction contract for a public project is to be awarded to a bidder, a resident bidder shall be allowed a preference against a non-resident bidder from a state or foreign country equal to the preference given or required by the state or foreign country in which the non-resident bidder is a resident. If it is determined by the officer responsible for awarding the bid that compliance with this subsection .06 may cause denial of federal funds which would otherwise be available or would otherwise be inconsistent with requirements of Federal law, this subsection shall be suspended, but only to the extent necessary to prevent denial of the monies or to eliminate the inconsistency with Federal requirements (CRS 8-19-101 and 102).

GENERAL

7. The laws of the State of Colorado and rules and regulation issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract whether or not incorporated herein by reference which provides for arbitration by any extr-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defence, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

8. At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and state laws, rules, and regulations that have been or may hereafter be established.

9. The signatories aver that they are familiar with CRS 18-8-301m et. Seq., (Bribery and Corrupt Influence) and CRS 18-8-401, et. Seq., (Abuse of Public Office), and that no violation of such provisions is present.

10. The signatories aver that to their knowledge, no state employee has any personal or beneficial interest whatsoever in the service or property described herein:

CU-UTC INTELLECTUAL PROPERTY OPERATING AGREEMENT

RECITALS

WHEREAS, it is understood by the parties hereto that the University of Colorado now owns and will subsequently continue to own title to or rights in inventions, discoveries and other intellectual property created by its faculty, staff and students by virtue of their relationship with the University as more particularly specified in the University Patent Policy adopted by the Regents of the University; and

WHEREAS, the University has and will continue to have by virtue of public laws and private contracts the right to license or otherwise enter into agreements for the commercial development of such inventions, discoveries and other intellectual property; and

WHEREAS, the University desires that certain of its inventions, discoveries and other intellectual property in which the University has an ownership interest should be made available for public use and benefit as efficiently and quickly as possible; and

WHEREAS, University Technology Corporation, ("UTC") has been organized as a nonprofit corporation pursuant to C.R.S. § 23-5-121 to receive, hold, invest in, administer and manage intellectual property for the benefit of the University and UTC is willing to administer and manage the University's intellectual properties as provided herein.

NOW THEREFORE, for good and valuable consideration and the mutual performance of the undertakings herein, it is agreed by the parties hereto as follows:

- I. **Administration of the University Patent Policy.** UTC agrees to abide by the University Patent Policy and assist the University in administering the University Patent Policy as it now exists or as it may be amended in the future by the University. In the event of any conflict between this agreement and the University Patent Policy, the terms of the University Patent Policy shall be deemed to control.
- II. **Consideration.**
 - A. **Base Fee.** In consideration for UTC's agreement to manage the University's intellectual property under the terms of this Agreement, the University shall pay to UTC an annual base servicing fee. This fee shall be \$250,000 for the fiscal year beginning on July 1, 1998 paid by the University to UTC on or before July 31, 1998. In each subsequent year of the contract, the parties shall in good faith negotiate the amount of the base servicing fee.

PERFORMANCE CRITERIA

- B. **Performance Milestones.** No later than August of each year during the term of this Agreement, UTC shall provide the President of the University and the Board of Regents with a report of its performance over the last fiscal year and its performance milestones for the next fiscal year. UTC's performance shall be evaluated on an annual basis by the Vice President for Academic Affairs and Research, who shall also request and coordinate written evaluations of UTC by members of the Faculty Inventors Council, the Chancellors and other relevant University constituents.
- III. **Assignment of Rights in Intellectual Property.** The University, to the extent it has the right to do so and for the purposes of this Agreement, hereby assigns to UTC its entire right, title and interest in inventions, discoveries and other intellectual property in which the University has an interest. Such assignment shall be subject to any pre-existing agreements with other entities with which the University has contracted to transfer technology and to the rights, if any, of all agencies and entities, private and public, funding research at the University.
- A. **Patents and Patentable Intellectual Property.** The provisions of this paragraph include inventions and discoveries which have been patented, for which patents have been applied, or for which patent protection is being considered by the UTC Executive Committee.
 - B. **Copyrights and Copyrightable Intellectual Property.** The provisions of this paragraph include copyrighted works that fall within the University Patent Policy.
 - C. **Tangible Research Products.** The provisions of this paragraph include tangible research products generated in the course of research activity in any University of Colorado facility. Tangible research products are included in the University Policy definition of "Discoveries", although UTC shall delegate the authority to commercialize tangible research products to the campuses.
 - D. **Know-How.** UTC shall be entitled to obtain copies of written University materials, such as laboratory notebooks, manuscripts, descriptions of best mode of practice, or improvements that exist at the time of an invention disclosure or a license agreement. UTC may negotiate additional obligations on a case-by-case basis with involvement of the faculty.

REPORTING RELATIONSHIP

IV. Authority to Sign Documents and Enter Into Agreements. The University acknowledges that in administering the University's Patent Policy and managing the rights assigned to UTC in Section III of this Agreement, UTC may enter into agreements with other persons and/or entities and sign documents as are necessary to carry out the purposes of this Agreement. By way of example, and not by limitation, the agreements and documents envisioned by this paragraph include confidentiality agreements, cooperative research and development agreements, licensing agreements, materials transfer agreements, patent applications, and stock transfer agreements. Notwithstanding the foregoing, the parties agree that no invention disclosure will be commercially exploited through the formation of new companies without the express prior concurrence of the University's President and the University Committee on Intellectual Property, said concurrence not to be unreasonably withheld. Such Agreements may result in the conveyance, transfer, assignment and/or licensing of all the right, title and interest of UTC in such inventions or discoveries.

V. Receipt and Distribution of Revenue.

A. Rights to Revenue Predating June 3, 1996. To the extent the University is entitled to revenue or property rights from intellectual property by virtue of agreements existing on or before June 3, 1996, with other entities with which the University had contracted to transfer technology (including, but not limited to: the University of Colorado Foundation, University Research Corporation, University Science and Engineering Technologies, Inc., formerly known as University Patents Incorporated, and Research Corporation Technologies), the University hereby assigns to UTC the right to receive that revenue during the term of this Agreement. By way of example, and not limitation, this paragraph includes royalty income, licensing fees, equity interest and income resulting from the settlement or judgment of claims enforcing the intellectual property rights of the University or UTC.

B. Rights to Revenue Arising after June 3, 1996, Including Current and Future Revenue. Under the terms of the Intellectual Property Assignment and Servicing Agreement dated June 3, 1996, and in consideration of the obligations contained in this agreement, during the term of this Agreement, UTC shall be entitled to receive revenues resulting from the transfer of technology occurring after June 3, 1996. By way of example, and not limitation, this paragraph includes royalty income, licensing fees, equity interest, and income resulting from the settlement or judgment of claims enforcing the intellectual property rights of the University or UTC.

- C. **Obligation to Distribute Revenue.** UTC hereby agrees to distribute the revenues described above in accordance with the University Patent Policy, as it may be amended from time to time, and subject to the clarifications described below. UTC shall retain the 25% share identified in the University Patent Policy as belonging to the University.
- D. **Definition of Net Revenue.** "Net Revenue" which is subject to distribution under the University Patent Policy shall be gross revenues associated with a particular technology, less actual costs attributable to that technology (including, but not limited to legal fees, accounting fees, marketing fees, etc.), less a UTC Board approved administrative charge which shall be retained by UTC as an operating expense.
- E. **Equity as a Component of Revenue.** The parties recognize that UTC may, under certain circumstances, receive equity as part of the revenue associated with a particular technology. This paragraph describes the general treatment of equity as a component of revenue.
 - 1. **Definition of Equity.** "Equity" shall include all classes of ownership shares in a corporation, including options for ownership shares.
 - 2. **Liquidation of Equity.** UTC shall liquidate equity in accordance with the policies adopted by the UTC Board. The proceeds from the liquidation of equity shall normally be treated as revenues to be distributed in accordance with the University Patent Policy.
- F. **Reinvestment of Revenue.** It is the intent of UTC to reinvest funds to support research and academic initiatives.

VI. UTC's Relationship to Campuses of the University.

- A. **Campus Technology Transfer Offices.** Each campus of the University of Colorado shall maintain a local Technology Transfer Office (TTO) to provide technology transfer and support to faculty members in the communication of intellectual property. The faculty of each campus shall have access to the TTO to obtain advice and forms related to intellectual property. The TTO shall have primary responsibility for faculty, staff and student education, and recommendations or actions on matters related to intellectual property, including but not limited to, review and approval of Standard Research Agreements, Materials Transfer Agreements, and Confidentiality Agreements as they pertain to intellectual property and the rights associated therewith.

- B. **UTC's Financial Support of Campus Technology Transfer Offices.** The UTC shall negotiate an amount of financial support with the Campus Chancellor to support the campus TTO. No later than August of each year during the term of this Agreement, each campus TTO, in consultation with the respective Chancellor shall set its performance milestones for the next fiscal year. It is the intent of the parties that UTC support for each campus TTO rise in relation to the overall financial success of the Technology Transfer program.
- C. **Duties and Responsibilities of Campus Offices to UTC.** No later than August 1 of each year during the term of this Agreement, each Campus TTO shall provide the campus Chancellor with a written report describing the activities and accomplishments of the previous fiscal year, milestones for performance for the next fiscal year and other information deemed appropriate by the Chancellor with input from UTC. The campus Chancellor shall, in turn, share this report with UTC. Oral, informal reports on general technology transfer activity will be made at each meeting of the Executive Committee. Written evaluations and recommendations on each campus Invention Disclosure will be provided to the UTC in a timely manner, with a target date of less than 30 days from receipt.
- D. **Duties and Responsibilities of UTC to Campus Offices.** No later than August each year of the agreement term, the UTC shall provide to the Chancellor and the TTO of each Campus a written report describing the activities and accomplishments of the UTC for the previous fiscal year, milestones for performance for the next fiscal year, and other matters deemed appropriate. Specifically, these reports shall include Invention disclosures received, actions taken, patent applications filed, patents issued, financial activity (including receipts and disbursements), agreements signed, technologies transferred, staffing and general Intellectual property activity including presentations and publications. Oral, informal reports on general UTC functions and items of potential interest to the TTOs will be made at each meeting of the Executive Committee. The UTC is to provide the Executive Committee with its review and recommendations on Invention Disclosures in a timely manner, with a target date of less than 30 days from receipt of the completed disclosure and campus review. The UTC shall inform both the Campus TTO and the inventors of critical marketing and licensing activities, including negotiations, related to specific inventions, in addition to the recommendations of the Executive Committee. The UTC shall also provide to the Campus copies of the minutes of the meetings of the UTC Board of Directors. The UTC President will convey to the UTC Board of Directors any policy recommendations arising from the Executive Committee and/or the Faculty Inventors Council.

- E. **UTC Board Meetings.** Each campus Chancellor or his or her designee may attend UTC Board Meetings to provide input. UTC shall provide Chancellors with notice of Board Meetings in the same manner as Board Members. The UTC Board may, at its sole discretion, excuse the Chancellors or designees for executive sessions.
 - F. **UTC Obligations to Faculty Inventors.** UTC agrees to make timely decisions on invention disclosures and patent applications. It will maintain a policy that seeks to make decisions on whether or not to file for patent protection within approximately ninety (90) days of receipt of the completed disclosure (recognizing that in some instances more data will be required before a final decision can be rendered), and whether or not to convert provisional to regular applications after receipt of additional information from the inventors which occurs within approximately six (6) months from the original filing date. In cases where protection will not be sought on behalf of UTC and CU, rights will be released to inventors with sufficient notice that they can pursue filings on their own behalf. All such actions, along with any licensing and negotiating activity, will be communicated to inventors so that they can respond and comment on proposed agreements. UTC shall implement a plan whereby annual activity and financial reports are provided to inventors. UTC shall respond in a timely manner to inventor requests for information regarding activity and financial reports. It shall seek inventor input whenever inventor "know-how" is to be licensed, and shall not license same if the inventor objects. Distributions of net income will be made in accordance with the University of Colorado Board of Regents' policy.
 - G. **Policy Manual.** UTC shall develop and maintain a manual of policies that will be made available for inspection and copying to Campus Technology Transfer Officers, faculty inventors and other interested parties upon request. All such policies must be consistent with the University Patent Policy.
- VII. **Access to University Resources.** In order to meet its obligations under this agreement, UTC shall have access to University resources including, but not limited to, campus mail privileges (including electronic mail), library privileges, parking permits at campus rates, use of conference rooms for the conduct of University-related business and other similar resources.
- VIII. **Use of University Name and Logos.** The University hereby grants to UTC authority to use the name of the University and its identifying marks and logos for the express purpose of furthering transfer of technology as otherwise described in this Agreement. UTC expressly understands and agrees that any such use shall be consistent with the University's graphic standards.

DISPUTE RESOLUTION

IX. Dispute Resolution.

- A. Institutional Dispute Resolution.** The coordination of the day-to-day operations between the University and UTC shall be conducted by the Vice President for Academic Affairs and Research and the President of UTC. However, in the event that a dispute develops between those parties, then the matter shall be referred to a committee of three individuals, one of whom shall be selected by the President of the University, one of whom shall be a member of the UTC Board named by the Board (the UTC Board member cannot be the Vice President of Academic Affairs and Research), and the third member to be named by other two members. This panel shall receive position statements from both the University and UTC regarding the dispute, interview individuals the panel deems necessary to resolve the dispute, review documents the panel deems necessary to resolve the dispute and take other steps as appropriate, in the judgment of the panel, to resolve the dispute. In the event the University and UTC cannot reach agreement with the panel as to the appropriate disposition of the matter, the panel shall issue a written directive to the University and UTC which shall be final.
- B. Resolution of Faculty Disputes regarding UTC Operational Decisions.** UTC shall maintain an appeal policy that describes procedures for faculty members who have a dispute over UTC's operational decisions. This policy shall include an appeals committee with faculty and campus technology transfer officer members. The appeals process should provide for reasonably prompt resolution of disputes. UTC currently maintains a detailed appeal mechanism, but the parties understand that this mechanism is a UTC Board policy which may be amended from time to time.
- X. Term.** This Agreement is effective on July 1, 1998 for a period of one year. The parties shall have an option to renew the agreement, with or without amendments, for four successive one year periods. Thus, if all option periods are exercised, the total term of the Agreement shall be five years ending on June 30, 2003. The parties shall be deemed to have exercised their option to renew for a successive one year period unless one party provides written notice to the other by January 1, prior to the end of the then current term, that it does not wish to renew for an additional one year period.
- XI. Default.** In the event either party breaches any term of this Agreement and such breach is not cured within thirty days after written notice of such breach, the non-breaching party must initiate the dispute resolution process described in Section IX

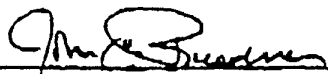
of this Agreement. At the conclusion of the dispute resolution process, if the dispute is not resolved, the non-breaching party shall have the right to give written notice of termination of the Agreement and pursue legal and equitable remedies. Once notice of termination has been provided, the Agreement shall automatically terminate at the end of ninety days. Upon termination, the University shall be entitled to an accounting of all assets and liabilities of UTC.

XII. **Financial Commitments.** It is the intent of the University to fulfill its obligations under this Agreement. However, contractual commitments cannot be made by the University beyond the period for which funds have been appropriated by the Legislature. In the event sufficient funds from which the University may fulfill its obligations under this Agreement are not appropriated, said Agreement will automatically terminate. Reimbursement will then be made, as soon as reasonably possible, for work completed by UTC prior to the effective date of termination and which would otherwise be eligible for reimbursement.


XIII. **Special Provisions.** Attached to this Agreement are Special Provisions which are hereby incorporated by reference and expressly made a part of this agreement.

In witness whereof, the parties have caused this Agreement to be signed herein below:

THE REGENTS OF THE UNIVERSITY
OF COLORADO, a body corporate,

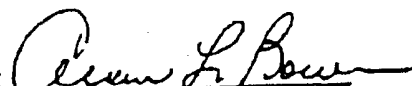
By: 
John G. Buechner
President

ATTEST:


Milagros Caraballo
Secretary of the University of Colorado
and of the Board of Regents

APPROVED:


STATE CONTROLLER
CLIFFORD W. HALL

By:  10/18
Primary: Teresa Berryman
Delegate: Alan Bowser


APPROVED AS TO FORM:


Special Assistant Attorney General

UNIVERSITY TECHNOLOGY
CORPORATION, a Colorado nonprofit
corporation,

By: 
Michael G. Gabridge
President

ATTEST:


Daniel J. Wilkerson
Corporate Secretary

UTCOUTL

ADDENDUM

University Technology Corporation ("UTC") and the University of Colorado (the "University") are parties to the CU-UTC Intellectual Property Operating Agreement effective July 1, 1998. Pursuant to paragraph II A of that Agreement, the University pays UTC an annual base servicing fee for the fiscal year beginning on July 1 of each year. For the fiscal year beginning July 1, 2000, the parties have agreed that the base servicing fee will be \$550,000. This base servicing fee will have two components for FY 00-01: \$250,000 which reflects the historical annual servicing fee and \$300,000 which is intended only for this fiscal year. One-half of such amount shall be paid July 1, 2000 and the remainder shall be paid January 1, 2001.

In witness whereof, the parties have executed this Addendum effective July 1, 2000.

THE REGENTS OF THE UNIVERSITY
OF COLORADO, a body corporate,

UNIVERSITY TECHNOLOGY
CORPORATION, a Colorado nonprofit
Corporation,

By: Alexander E. Bracken
Alexander Bracken, Ph.D.
President

By: Mitch Griffith
Mitch Griffith
President

ATTEST: Marion L. Bracken

APPROVED:

STATE CONTROLLER
ARTHUR L. BARNHART

John Bliss
John Bliss
Vice President for Budget and Finance

APPROVED AS TO FORM:

D.J. Wilkerson
Daniel J. Wilkerson
Special Assistant Attorney General

ADDENDUM

April 18, 2001

University Technology Corporation ("UTC") and the University of Colorado (the "University") are parties to the CU-UTC Intellectual Property Operating Agreement effective July 1, 1998 (the "Operating Agreement"). UTC and the University, based on written direction from the University, anticipate that the University will resume direct responsibility for substantially all technology transfer activities. To provide a more effective transition of those activities prior to the date the University assumes such direct responsibility, the parties have agreed to this Addendum.

1. UTC hereby delegates to the University, through the Office of the Vice-President for Academic Affairs and Research, for sub-delegation to the University's campus technology transfer offices, at the discretion of the Vice-President for Academic Affairs and Research, the responsibility and authority under the Operating Agreement for managing all new invention disclosures received from University inventors/authors. In addition, responsibility and authority for existing invention disclosures may be delegated as determined by the UTC Board. The University's campus technology transfer offices shall have full authority to release intellectual property rights to inventors/authors, or to accept disclosures, conditionally or unconditionally. The delegation of this responsibility and authority is non-exclusive, and UTC also retains such authority and responsibility for activities that are not undertaken by the University.

2. In connection with managing the invention disclosures, the University's is also delegated the authority to engage patent counsel as necessary for the prosecution of appropriate patent rights. UTC shall pay for such patent services, with an agreed maximum for each patent matter set in advance in writing by patent counsel, UTC, and the University.

3. In connection with managing the invention disclosures, the University is also delegated the authority to negotiate and execute binding option agreements, license agreements, and related technology transfer agreements. Because they are operating under a delegation of authority from UTC, the University may also utilize UTC legal counsel for review of material or unusual terms in such agreements. For any agreements executed by the University, the 25% share otherwise retained by UTC under the Operating Agreement shall be paid to the University through the Office of the Vice President for Academic Affairs and Research, for distribution, at the discretion of the Vice-President for Academic Affairs and Research and upon University approval, for budgeted priorities of the University's technology transfer activities.

4. UTC and the University shall cooperate to implement the matters described in this Addendum effectively. By way of example, UTC shall provide access to the DEALS database used by UTC, and a letter may be prepared to interested parties in the University community concerning the transition of these activities.

5. The implementation of this transition and the allocation of responsibility and authority shall be determined collectively by the Vice President for Academic Affairs and Research, the Executive Director of UTC, and the University's campus technology transfer

officers. By way of example, they may determine that the University will assume responsibility for all new invention disclosures after a certain date, or on a campus-by-campus basis after a certain date, or on a case-by-case basis or in some other manner.

IN WITNESS WHEREOF, the parties have executed this Addendum on the dates set forth below to be effective through June 30, 2001.

THE REGENTS OF THE UNIVERSITY
OF COLORADO, a body corporate

UNIVERSITY TECHNOLOGY
CORPORATION, a Colorado nonprofit
corporation

By: Jay Rubin
Date: 4/18/01

By: [Signature]
Date: 4-18-01

PATENT ASSIGNMENT

THIS ASSIGNMENT is made effective as of April 30, 2002, by and between UNIVERSITY TECHNOLOGY CORPORATION, a Colorado nonprofit corporation ("*Assignor*") and THE REGENTS OF THE UNIVERSITY OF COLORADO, a body corporate ("*Assignee*").

WHEREAS, Assignee wishes to acquire and Assignor wishes to assign all of its right, title and interest in, to and under the patents and patent applications listed on Exhibit A attached hereto (collectively, the "*Patent Properties*").

NOW, THEREFORE, for good and valuable consideration paid by Assignee to Assignor, receipt of which is hereby acknowledged, Assignor agrees to sell, assign, transfer and set over and does hereby sell, assign, transfer and set over to Assignee, its entire right, title and interest in and to the Patent Properties, as well as the inventions claimed in such Patent Properties, for the United States and for all foreign countries, including any continuations, divisions, continuations-in-part, reissues or extensions thereof for its own use and enjoyment, and for the use and enjoyment of its successors, assigns or other legal representatives, as fully and entirely as the same would have been held and enjoyed by Assignor if this assignment and sale had not been made; together with all claims for damages by reason of past, present or future infringement or other unauthorized use, with the right to sue for, and collect the same for its own use and enjoyment, and for the use and enjoyment of its successors, assigns, or other legal representatives.

Assignor shall provide to Assignee, its successors, assigns or other legal representatives, cooperation and assistance at Assignee's reasonable request and reasonable expense (including the execution and delivery of any and all affidavits, declarations, oaths, assignments, powers of attorney or other documentation as may be reasonably required): (1) in the preparation and prosecution of any applications covering inventions assigned herein; (2) in the prosecution or defense of any interference, opposition, reexamination, reissue, infringement or other proceedings that may arise in connection with any of the patent rights assigned herein, including testifying as to any facts relating to the patent rights assigned herein and this Assignment; (3) in obtaining any additional patent protection that Assignee may deem appropriate which may be secured under the laws now or hereafter in effect in the United States or any other country; and (4) in the implementation or perfection of this Assignment.

IN TESTIMONY WHEREOF, the undersigned has executed this Patent Assignment to be effective as of the 30th day of April, 2002.

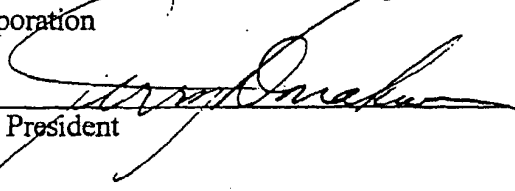
ASSIGNEE:

THE REGENTS OF THE UNIVERSITY
OF COLORADO, a body corporate

By: 
Its: President

ASSIGNOR:

UNIVERSITY TECHNOLOGY
CORPORATION, a Colorado nonprofit
corporation

By: 
Its: President

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared John W. Bliss as designee for the President of the University of Colorado, and acknowledged the execution of the foregoing Patent Assignment this 26th day of July, 2002.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal.

Margaret K. Annis
Notary Public
My commission expires: 2/8/03

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared Jerry Donahue, President of University Technology Corporation, and acknowledged the execution of the foregoing Patent Assignment this 22 day of July, 2002.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal.

Anne Baudier
Notary Public
My commission expires August 26, 2003